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QUINE Intellectual Property Law Group, P.C.

By:

Chianti Applying

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Client Ref:

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2001-101-1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

**ROBERT V. FARESE, Jr, YUKO
TERASAWA, and MARET G. TRABER**
Application No.: 10/001,278

Filed: 11/01/2001

For: **ALPHA-TOCOPHEROL TRANSFER
PROTEIN KNOCKOUT ANIMALS**

Examiner: Valerie E. Bertoglio

Art Unit: 1632

**RESPONSE TO RESTRICTION
REQUIREMENT**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This paper is filed in response to the Office Action dated September 12, 2002, containing a Restriction Requirement. The following documents are enclosed herewith:

- 1) A petition to extend the period of response for four months.

REMARKS

In the September 12, 2002 Office Action the Examiner required restriction to one of the following groups under 35 U.S.C. §121:

- Group I: Claims 1-11, and 27-37, drawn to a knockout mammal comprising a disruption in an endogenous *Ttpa* gene
- Group II: Claims 12-26, and 38-42, drawn to a knockout mammal comprising disruptions in an endogenous *Ttpa* gene and an *apoE* gene;
- Group III: Claims 12-16, and 38-42, drawn to a knockout mammal comprising disruptions in an endogenous *Ttpa* gene and an APP gene;
- Group IV: Claims 43-53, drawn to a nucleic acid construct for disrupting an α -tocopherol transfer protein gene; and
- Group V: Claims 53-56, drawn to a cell comprising a disruption in *Ttpa*.

In response to this restriction requirement, Applicants provisionally elect Group

I, claims 1-11 and 27-37, with traverse.

Applicants submit that restriction between Groups I, II, and III is both improper and unnecessary. As represented by the Examiner, the claims of Group I are drawn to a knockout mammal comprising a disruption in an endogenous *Ttpa* gene, while the claims of groups II and III are drawn to a knockout mammal comprising a disruption in an endogenous *Ttpa* gene *and* a disruption in an *apoE* gene or an *App* gene, respectively. The claims of Groups II and III are, in effect dependent to the generic claims of Group I and simply further limit the invention claimed in Group I. Should the claims of Group I prove allowable, the claims of Groups II and III will, *de facto*, be allowable as well.

The Examiner is reminded that according to MPEP §803, the Examiner should examine all claims in an application, even though they are directed to distinct inventions, unless to do so would create a serious burden. In the instant case, as indicated above, a determination that the claims of Group I are allowable is a *de facto* determination that the claims of Groups II and III are allowable as well. Accordingly Examination of Groups I, II, and III together entails no greater burden than an examination of Group I alone. Accordingly, Examination of Groups I, II, and III together entails no serious burden and the restriction between these groups should be withdrawn.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 337-7871.

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Respectfully submitted,



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